

AMENDED IN ASSEMBLY JULY 2, 2014

AMENDED IN ASSEMBLY MAY 27, 2014

AMENDED IN SENATE MAY 13, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 355

Introduced by Senator Beall

February 20, 2013

An act to amend ~~Section~~ *Sections 37006, 37011, 37012, 37013, 37014, 37032, 37034, 37035, and 37036* of the Public Resources Code, and to amend Sections 17053.30 and 23630 of the Revenue and Taxation Code, relating to ~~taxation, to take effect immediately, tax levy conservation, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as amended, Beall. Conservation: ~~tax-credits.~~ *credits: grant in lieu of tax credits.*

The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands.

The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws in the amount equal to

55% of the fair market value of any qualified contribution, ~~as defined as property that has been approved for acceptance by the Wildlife Conservation Board,~~ made, no later than June 30, 2015, during the taxable year pursuant to the Natural Heritage Preservation Tax Credit Act of 2000, as provided. *Those laws allow the credit to be carried over for 8 years if necessary.*

The Natural Heritage Preservation Tax Credit Act of 2000 establishes the Natural Heritage Preservation Tax Credit Reimbursement Account in the General Fund to receive bond fund moneys from a local government or a department that is authorized to expend the moneys to acquire property by donation under the act. Existing law requires moneys in the account to be transferred to the General Fund for reimbursement of tax credits claimed under the act.

This bill would extend the period for when a qualified contribution is made for which a tax credit would be allowed to June 30, 2020. ~~This bill would, for each taxable year beginning on or after January 1, 2014, allow for the transfer of the credit allowed pursuant to the Natural Heritage Preservation Tax Credit Act of 2000 from prior years whose carryover period has not expired by the taxpayer to an unrelated party, as provided. This bill would also extend the carryover period to 15 years.~~

~~This bill would take effect immediately as a tax levy.~~

This bill would also allow, in lieu of those tax credits, a donor of a qualified contribution made on or after January 1, 2015, and not later than June 30, 2020, to make an irrevocable election to receive a grant, as specified. This bill would require a department or local government authorized to expend bond fund moneys to acquire property by donation to transfer amounts necessary to make the grants in lieu of the tax credits to the Natural Heritage Preservation Tax Credit Reimbursement Account. This bill would, upon receipt of funds in the Natural Heritage Preservation Tax Credit Reimbursement Account that are attributable to those grant amounts, continuously appropriate those funds to the Controller for transfer to the board to make the payment of those grants. This bill would exempt from gross income of a taxpayer any grant in lieu of the tax credit.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 37006 of the Public Resources Code is amended to read:

37006. (a) ~~(1)~~ Under the program, upon approval by the board, a donor may contribute qualified property to a donee and receive a tax credit for a portion of the value of the property, as provided in Sections 17053.30 and 23630 of the Revenue and Taxation Code.

~~(2) If the board approves a transfer of the credit pursuant to subdivision (f) of Section 17053.30 or subdivision (f) of Section 23630 of the Revenue and Taxation Code, the board shall provide a certificate to the donor evidencing that approval, in a form satisfactory to the Franchise Tax Board.~~

(b) (1) In lieu of a tax credit under Section 17053.30 or Section 23630 of the Revenue and Taxation Code, a donor of a qualified contribution made on or after January 1, 2015, and not later than June 30, 2020, may elect to receive a grant under this subdivision. The election shall be irrevocable and shall be reflected in the application of the donor submitted pursuant to Section 37011.

(2) The board shall, subject to the requirements of this subdivision and as permitted by available funds pursuant to Chapter 7 (commencing with Section 37030), provide a grant to the donor of the qualified contribution.

(3) The amount of the grant under this subdivision shall be an amount equal to 55 percent of the fair market value of any contribution of property, as defined in Section 37002, that has been approved for acceptance by the board pursuant to this division.

(4) The board shall make payment of any grant under this subdivision during the 60-day period beginning on the latter of either of the following:

(A) The date of the application for the grant.

(B) The date the qualified contribution was made.

~~(b)~~

(c) The board shall adopt guidelines or regulations to implement the program, including procedures for applications submitted pursuant to Chapter 4 (commencing with Section 37010) and for, for the grant in lieu of the tax credit, and for the evaluation of properties proposed to be contributed pursuant to the program.

Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the guidelines or regulations adopted pursuant to this section.

SEC. 2. Section 37011 of the Public Resources Code is amended to read:

37011. At a minimum, each application shall contain all of the following:

(a) The identification of the donor and donee.

(b) A description of the property, including documentation of how the property meets the criteria and qualifies for acceptance under the program.

(c) A property appraisal meeting the requirements of Section 170 of Title 26 of the United States Code, setting forth the fair market value of the property.

(d) (1) A certification by the donor that the donor received no other valuable consideration for the donation of property.

(2) A certification by the donor that the contribution was not, and is not, required to satisfy a condition imposed upon the donor by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(e) A certification by the donor that the application discloses any known or suspected environmental conditions associated with the property.

(f) *Any election of the donor, irrevocable if made, to receive a grant under Section 37006 in lieu of the tax credits under Sections 17053.30 and 23630 of the Revenue and Taxation Code.*

SEC. 3. Section 37012 of the Public Resources Code is amended to read:

37012. (a) Each donee shall evaluate applications submitted to it and prepare a plan for the board that sets forth the donee's priorities for acquisition of property that qualifies under the program. Consistent with the criteria established for the program, each donee may use its own priority lists and procedures in determining which properties or types of properties shall be given priority.

1 (b) Each donee or the board may request that the applicant
2 supply further information reasonably necessary to allow the donee
3 or the board to evaluate the proposed donation.

4 (c) The department may accept contributions of money from
5 any taxpayer to pay or reimburse the costs of appraisal, escrow,
6 title, and other transaction costs associated with the contribution
7 of any particular property or set of properties, including any
8 environmental assessments required by the department, and the
9 costs of preparing any necessary management plan for the property
10 or set of properties.

11 (d) Prior to acquiring an easement or other interest in land
12 pursuant to this division, a public hearing shall be held by the
13 donee, if the donee is a public agency, or by the board if the donee
14 is a designated nonprofit organization, in the local community.
15 Notice shall be given by the donee or the board to the county board
16 of supervisors of the affected county, adjacent landowners, affected
17 water districts, local municipalities, and other interested parties,
18 as determined by the donee or the board.

19 (e) When submitting a donation of qualified property to the
20 board for final approval, the donee shall provide the board with
21 the fair market value of the property proposed for acceptance,
22 based on appraisals that have been reviewed and approved by the
23 Department of General Services.

24 (f) *The donee shall notify the board of any irrevocable election*
25 *made by the donor to receive a grant under Section 37006 in lieu*
26 *of the tax credits under Sections 17053.30 and 23630 of the*
27 *Revenue and Taxation Code.*

28 *SEC. 4. Section 37013 of the Public Resources Code is*
29 *amended to read:*

30 37013. The board shall provide a list to the Joint Legislative
31 Budget Committee and the Franchise Tax Board, in the form and
32 manner determined by the Franchise Tax Board, of the names,
33 taxpayer identification numbers, including taxpayer identification
34 numbers of each partner or shareholder, as applicable, a legal
35 description of the donated property, and the total amount of the
36 tax credit *or grant in lieu of the tax credit* approved for each
37 donation.

38 *SEC. 5. Section 37014 of the Public Resources Code is*
39 *amended to read:*

1 37014. Assets received by a donee pursuant to this division
2 shall not be deemed transfers pursuant to Chapter 9 (commencing
3 with Section 2780) of Division 3 of the Fish and Game Code.
4 Funds from the Habitat Conservation Fund, the Environmental
5 Enhancement and Mitigation Program Fund created pursuant to
6 Section 164.56 of the Streets and Highways Code, the State Parks
7 and Recreation Fund, and the Wildlife Restoration Fund, may not
8 be used to fund the tax credit *or grant in lieu of the tax credit*
9 authorized pursuant to this division.

10 SEC. 6. Section 37032 of the Public Resources Code is
11 amended to read:

12 37032. (a) If a department or local government identifies
13 property that may be acquired pursuant to this division and
14 determines that the acquisition would comply with the purpose of
15 a bond provision listed in subdivision (c) and any applicable
16 guidelines developed for that bond provision by the administering
17 agency, and all of the requirements of this division are met and
18 the department or local government acquires the property pursuant
19 to this division, the department or local government may expend
20 funds from the bond provision that have been appropriated,
21 allocated, or awarded to it, to acquire the property using the tax
22 credit *or grant in lieu of the tax credit* provided by this division.

23 (b) The applicable bond provisions from which a department
24 or local government may use bond funds to acquire property using
25 the tax credit *or grant in lieu of the tax credit* provided by this
26 division do not include grants of bond funds distributed through
27 a competitive process.

28 (c) The applicable bond provisions from which a department
29 or local government may expend bond funds pursuant to
30 subdivision (a) are the following:

31 (1) Section 5096.615.

32 (2) Subdivision (a) or (b), or paragraph (1) of subdivision (c),
33 of Section 5096.650.

34 (3) Funds under paragraph (2) of subdivision (c) of Section
35 5096.650 that are to be expended pursuant to paragraph (6) of
36 subdivision (b) of Section 31220.

37 (4) Section 79541 of the Water Code.

38 (5) Section 79542 of the Water Code.

39 (6) Section 79544 of the Water Code.

40 (7) Subdivision (e) or (f) of Section 79550 of the Water Code.

1 (8) Section 79565 of the Water Code.

2 (9) Section 79568 of the Water Code.

3 (10) Section 79570 of the Water Code.

4 (11) Section 79572 of the Water Code.

5 (12) Other bond funds, if the bond act specifies that its funds
6 may be used for the purposes of this division.

7 *SEC. 7. Section 37034 of the Public Resources Code is*
8 *amended to read:*

9 37034. (a) (1) If a department determines that property is
10 available for acquisition by donation, and that the acquisition of
11 the property would comply with the requirements of an applicable
12 bond provision specified in subdivision (c) of Section 37032 and
13 any applicable guidelines developed for that bond provision by
14 the administering agency, and the department believes the
15 acquisition of the property would comply with the requirements
16 of this division, the department may request the prospective donor
17 of the property to submit an application pursuant to Section 37010.
18 If the prospective donor agrees to submit that application, the
19 department may apply for approval of the donation pursuant to the
20 requirements of this division.

21 (2) If a local government determines that property is available
22 for acquisition by donation, and that the acquisition of the property
23 would comply with the requirements of an applicable bond
24 provision specified in subdivision (c) of Section 37032 and any
25 applicable guidelines developed for that bond provision by the
26 administering agency, and the local government believes that the
27 acquisition of the property would comply with the requirements
28 of this division, the local government may request the department
29 that allocated to it the relevant bond funds to determine whether
30 it agrees with the local government's determinations and beliefs
31 made pursuant to this paragraph. If the department agrees with the
32 local government and gives its approval for the acquisition with
33 bond funds that it has allocated to the local government, the local
34 government may request the prospective donor of the property to
35 submit an application pursuant to Section 37010. If the prospective
36 donor agrees to submit the application, the local government may
37 apply for approval of the donation pursuant to the requirements
38 of this division.

39 (3) In addition to the requirements of Section 37011, the
40 application shall include, and shall not be accepted if it does not

1 include, a signed authorization by the donor, in a form and manner
2 mutually agreeable to the board and the Franchise Tax Board, for
3 the disclosure of the information necessary to make the payment
4 as required by subdivision (b). For purposes of subdivision (b) of
5 Section 1798.24 of the Civil Code, the signed authorization shall
6 be the donor's voluntary consent to the disclosure of the
7 information.

8 (b) (1) If the board gives approval, the department or local
9 government may acquire the property pursuant to this division.
10 Through the process outlined in this section, the department shall
11 reimburse the General Fund for the tax credit claimed pursuant to
12 this chapter under Section 17053.30 or 23630 of the Revenue and
13 Taxation Code *or fund the grant in lieu of those tax credits* by
14 transferring bond funds identified under subdivision (c) of Section
15 37032 to the Natural Heritage Preservation Tax Credit
16 Reimbursement Account, on the basis of information provided to
17 the department under Section 37040 regarding credit claimed for
18 a qualified contribution under Section 17053.30 or 23630 of the
19 Revenue and Taxation Code in that tax year *or information*
20 *provided to the department on the application pursuant to*
21 *subdivision (f) of Section 37011 regarding the irrevocable election*
22 *of the donor to receive a grant in lieu of the tax credit.*

23 (2) If a local government applies directly to the board for
24 acceptance of a qualified donation, the board may provide
25 conditional approval for the local government to acquire the
26 property pursuant to this division. Through the process outlined
27 in this section, the local government shall reimburse the General
28 Fund for the tax credit claimed pursuant to this chapter under
29 Section 17053.30 or 23630 of the Revenue and Taxation Code *or*
30 *to make the grant in lieu of those tax credits* by transferring funds
31 in the full amount of the approved tax credit *or grant* to the board
32 for deposit into the Natural Heritage Preservation Tax Credit
33 Reimbursement Account.

34 (3) (A) Upon approval by the board, and prior to the time the
35 department, local government, or designated nonprofit organization
36 receives the property, the department shall encumber bond funds
37 identified under subdivision (c) of Section 37032 in an amount
38 necessary to pay for the tax credit as provided in Section 17053.30
39 or 23630, as applicable, of the Revenue and Taxation Code *or to*
40 *make the grant in lieu of the tax credit.*

1 (B) If a local government applies directly to the board for
 2 acceptance of a qualified donation, and the board provides
 3 conditional approval of the qualified donation, the local
 4 government shall have 60 days to transfer to the board the full
 5 amount of funds necessary to reimburse the General Fund *or to*
 6 *make the grant in lieu of the tax credit*. Upon receipt of the funds
 7 necessary to reimburse the General Fund *or to make the grant in*
 8 *lieu of the tax credit*, the board shall provide the donor and the
 9 local government with a notice of final approval of the tax credit
 10 *or grant in lieu of the tax credit*. A tax credit *or grant in lieu of*
 11 *the tax credit* is not approved until such time as the donor and local
 12 government receive a final notification from the board that
 13 sufficient funds have been received to reimburse the General Fund
 14 for the loss of revenue associated with the tax credit *or to make*
 15 *the grant in lieu of the tax credit*.

16 (C) The acquisition agreement or any other document that
 17 clearly delineates the commitment pursuant to this division shall
 18 be the only documentation required for the department to encumber
 19 the bond funds as required by this paragraph.

20 (D) Except as prohibited by the relevant bond act,
 21 notwithstanding Section 13340 of the Government Code or any
 22 other provision of law, the encumbrance shall be available without
 23 regard to fiscal years to allow payments to the Natural Heritage
 24 Preservation Tax Credit Reimbursement Account for the tax credit
 25 due the donor of the property under Section 17053.30 or 23630,
 26 as applicable, of the Revenue and Taxation Code *or to make any*
 27 *grants in lieu of those tax credits*.

28 (4) The Franchise Tax Board shall provide the board information
 29 pursuant to subdivision (a) of Section 19560 of the Revenue and
 30 Taxation Code on tax credits claimed. The information shall
 31 include the tax year for which the credit was claimed. The board
 32 shall provide the information required by Section 37040 to the
 33 relevant department. Upon notification that a qualified tax credit
 34 has been claimed, the department, pursuant to paragraph (1), shall
 35 transfer bond funds in the amount of the tax credit for that tax year
 36 to the Natural Heritage Preservation Tax Credit Reimbursement
 37 Account within 60 days of receipt of the notification. The
 38 department shall notify the board of this transfer.

39 (5) The board shall forward the information it receives pursuant
 40 to paragraph (4) to the Controller and the Department of Finance,

1 which shall use the information for the purpose of attributing the
2 budgetary impact of the credit and bond fund transfer to the
3 appropriate tax and fiscal year.

4 *SEC. 8. Section 37035 of the Public Resources Code is*
5 *amended to read:*

6 37035. (a) (1) If a department determines that a designated
7 nonprofit organization, in lieu of the department, should accept
8 property that the department applies to acquire pursuant to
9 paragraph (1) of subdivision (a) of Section 37034, and determines
10 that the acceptance by the designated nonprofit organization would
11 comply with the purpose of the applicable bond provision specified
12 in subdivision (c) of Section 37032, the department may, upon
13 that determination and upon making the determinations and having
14 the belief required by paragraph (1) of subdivision (a) of Section
15 37034, apply to acquire the property for that designated nonprofit
16 organization pursuant to this division. The department shall not
17 make that application until the prospective donor agrees to submit
18 an application pursuant to Section 37010 and paragraph (3) of
19 subdivision (a) of Section 37034 and the designated nonprofit
20 organization agrees to accept the property if it is acquired pursuant
21 to this division.

22 (2) If a local government determines that a designated nonprofit
23 organization, in lieu of the local government, should accept
24 property that the local government applies to acquire pursuant to
25 paragraph (2) of subdivision (a) of Section 37034, and determines
26 that the acceptance by the designated nonprofit organization would
27 comply with the purpose of the applicable bond provision specified
28 in subdivision (c) of Section 37032, the local government may,
29 upon that determination and making the determinations and having
30 the belief required by paragraph (2) of subdivision (a) of Section
31 37034, request the department that allocated to it the relevant bond
32 funds to determine whether it agrees with the local government's
33 determinations made pursuant to this paragraph. If the department
34 agrees with the local government, gives its approval for the
35 designated nonprofit organization's acceptance of the property,
36 and gives its approval pursuant to paragraph (2) of subdivision (a)
37 of Section 37034, the local government may apply to acquire the
38 property for that designated nonprofit organization pursuant to this
39 division. The local government shall not make that application
40 until the prospective donor agrees to submit an application pursuant

1 to Section 37010 and paragraph (3) of subdivision (a) of Section
2 37034 and the designated nonprofit organization agrees to accept
3 the property if it is acquired pursuant to this division.

4 (b) If a department or local government applies for a designated
5 nonprofit organization to acquire property, pursuant to subdivision
6 (a), the department and donor, and the local government, if
7 applicable, shall comply with all requirements of this division that
8 apply to the department and donor, and to the local government,
9 if applicable, when the department or local government otherwise
10 applies to acquire property pursuant to this division.

11 (c) If a local government applies for a designated nonprofit
12 organization to acquire and accept donated property, the local
13 government shall comply with all requirements of this division
14 that apply to the local government transferring funds to the board
15 necessary to reimburse the General Fund *or to make the grant in*
16 *lieu of the tax credits under Sections 17053.30 and 23630 of the*
17 *Revenue and Taxation Code.*

18 *SEC. 9. Section 37036 of the Public Resources Code is*
19 *amended to read:*

20 37036. (a) The Natural Heritage Preservation Tax Credit
21 Reimbursement Account is established in the General Fund to
22 receive moneys paid pursuant to this chapter.

23 (b) Moneys in the Natural Heritage Preservation Tax Credit
24 Reimbursement Account shall be used only to reimburse the
25 General Fund *or to make the grant in lieu of the tax credits* as
26 determined by the departments pursuant to paragraph (1) of
27 subdivision (b) of Section 37034.

28 (c) ~~Upon~~ *Subject to subdivision (d), upon* receipt of funds in
29 the Natural Heritage Preservation Tax Credit Reimbursement
30 Account and notification to the Legislature, the Controller shall
31 transfer, within 60 days of the notification, the balance of the
32 Natural Heritage Preservation Tax Credit Reimbursement Account
33 to the General Fund.

34 (d) *Notwithstanding Section 13340 of the Government Code,*
35 *there is hereby continuously appropriated to the Controller, those*
36 *funds in the Natural Heritage Preservation Tax Credit*
37 *Reimbursement Account that are attributable to amounts to be*
38 *made as grants in lieu of the tax credits under Sections 17053.30*
39 *and 23630 of the Revenue and Taxation Code, for transfer by the*
40 *Controller to the board within the period described in paragraph*

1 (4) of subdivision (b) of Section 37006, to make the payments of
2 the grants in lieu of those tax credits.

3 ~~(d)~~

4 (e) The moneys in the Natural Heritage Preservation Tax Credit
5 Reimbursement Account may not be loaned to another fund and
6 may not accrue interest.

7 ~~SEC. 2.~~

8 SEC. 10. Section 17053.30 of the Revenue and Taxation Code
9 is amended to read:

10 17053.30. (a) There shall be allowed as a credit against the
11 “net tax,” as defined in Section 17039, an amount equal to 55
12 percent of the fair market value of any qualified contribution made
13 on or after January 1, 2000, and not later than June 30, 2008, and
14 on or after January 1, 2010, and not later than June 30, 2020, by
15 the taxpayer during the taxable year to the state, any local
16 government, or any designated nonprofit organization, pursuant
17 to Division 28 (commencing with Section 37000) of the Public
18 Resources Code.

19 (b) For purposes of this section, “qualified contribution” means
20 a contribution of property, as defined in Section 37002 of the Public
21 Resources Code, that has been approved for acceptance by the
22 Wildlife Conservation Board pursuant to Division 28 (commencing
23 with Section 37000) of the Public Resources Code.

24 (c) In the case of any pass-thru entity, the fair market value of
25 any qualified contribution approved for acceptance under Division
26 28 (commencing with Section 37000) of the Public Resources
27 Code shall be passed through to the partners or shareholders of
28 the pass-thru entity in accordance with their interest in the pass-thru
29 entity as of the date of the qualified contribution. For purposes of
30 this subdivision, the term “pass-thru entity” means any partnership,
31 “S” corporation, or limited liability company treated as a
32 partnership.

33 (d) If the credit allowed by this section exceeds the “net tax,”
34 the excess may be carried over to reduce the “net tax” in the
35 following year, and the succeeding ~~seven~~ 14 years if necessary,
36 until the credit is exhausted.

37 (e) This credit or a grant under Section 37006 of the Public
38 Resources Code shall be in lieu of any other credit or deduction
39 which the taxpayer may otherwise claim pursuant to this part with
40 respect to the property or any interest therein that is contributed.

1 ~~(f) (1) Notwithstanding any other law, for each taxable year~~
2 ~~beginning on or after January 1, 2014, a taxpayer may transfer~~
3 ~~credits from prior years whose carryover period has not expired~~
4 ~~to an unrelated party.~~

5 ~~(2) The taxpayer shall report to the Wildlife Conservation Board~~
6 ~~prior to the transfer of the credit, in the form and manner specified~~
7 ~~by the Wildlife Conservation Board, all required information~~
8 ~~regarding the transfer of the credit, including the social security~~
9 ~~or other taxpayer identification number of the unrelated party to~~
10 ~~whom the credit has been transferred and the face amount of the~~
11 ~~credit transferred, for the approval of the Wildlife Conservation~~
12 ~~Board.~~

13 ~~(3) Upon approval of the transfer, the Wildlife Conservation~~
14 ~~Board shall provide a certificate to the taxpayer evidencing the~~
15 ~~approval, in the form and manner specified by the Franchise Tax~~
16 ~~Board, that shall include all required information regarding the~~
17 ~~credit.~~

18 ~~(4) The Wildlife Conservation Board shall not approve a transfer~~
19 ~~of a credit under this section if the consideration received by the~~
20 ~~taxpayer in exchange for the credit is less than 90 percent of the~~
21 ~~value of the credit to be transferred.~~

22 ~~(f) (1) No credit shall be allowed under this section if the~~
23 ~~taxpayer has elected to receive a grant under subdivision (b) of~~
24 ~~Section 37006 of the Public Resources Code for that qualified~~
25 ~~contribution.~~

26 ~~(2) Any grant received under Section 37006 of the Public~~
27 ~~Resources Code shall not be included in the gross income of a~~
28 ~~taxpayer.~~

29 ~~SEC. 3.~~

30 ~~SEC. 11.~~ Section 23630 of the Revenue and Taxation Code is
31 amended to read:

32 23630. (a) There shall be allowed as a credit against the “tax,”
33 as defined in Section 23036, an amount equal to 55 percent of the
34 fair market value of any qualified contribution made on or after
35 January 1, 2000, and not later than June 30, 2008, and on or after
36 January 1, 2010, and not later than June 30, 2020, by the taxpayer
37 during the taxable year to the state, any local government, or any
38 designated nonprofit organization, pursuant to Division 28
39 (commencing with Section 37000) of the Public Resources Code.

(b) For purposes of this section, “qualified contribution” means a contribution of property, as defined in Section 37002 of the Public Resources Code, that has been approved for acceptance by the Wildlife Conservation Board pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(c) In the case of any pass-thru entity, the fair market value of any qualified contribution approved for acceptance under Division 28 (commencing with Section 37000) of the Public Resources Code shall be passed through to the partners or shareholders of the pass-thru entity in accordance with their interest in the pass-thru entity as of the date of the qualified contribution. For purposes of this subdivision, the term “pass-thru entity” means any partnership or “S” corporation.

(d) If the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the succeeding ~~seven~~ 14 years if necessary, until the credit is exhausted.

(e) This credit *or a grant under Section 37006 of the Public Resources Code* shall be in lieu of any other credit or deduction that the taxpayer may otherwise claim pursuant to this part with respect to the property or any interest therein that is contributed.

~~(f) (1) Notwithstanding any other law, for each taxable year beginning on or after January 1, 2014, a taxpayer may transfer credits from prior years whose carryover period has not expired to an unrelated party.~~

~~(2) The taxpayer shall report to the Wildlife Conservation Board prior to the transfer of the credit, in the form and manner specified by the Wildlife Conservation Board, all required information regarding the transfer of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been transferred and the face amount of the credit transferred, for the approval of the Wildlife Conservation Board.~~

~~(3) Upon approval of the transfer, the Wildlife Conservation Board shall provide a certificate to the taxpayer evidencing the approval, in the form and manner specified by the Franchise Tax Board, that shall include all required information regarding the credit.~~

~~(4) The Wildlife Conservation Board shall not approve a transfer of a credit under this section if the consideration received by the~~

1 taxpayer in exchange for the credit is less than 90 percent of the
2 value of the credit to be transferred.

3 (f) (1) No credit shall be allowed under this section if a taxpayer
4 has elected to receive a grant under subdivision (b) of Section
5 37006 of the Public Resources Code for that qualified contribution.

6 (2) Any grant received under Section 37006 of the Public
7 Resources Code shall not be included in the gross income of a
8 taxpayer.

9 SEC. 4. This act provides for a tax levy within the meaning of
10 Article IV of the Constitution and shall go into immediate effect.